

## **3 FAM 4530 ADVERSE ACTION PROCEDURES FOR SUSPENSIONS OF OVER 14 DAYS, REMOVALS, ETC.**

*(CT:PER-691; 03-18-2013)*  
*(Office of Origin: HR/ER/CSD)*

### **3 FAM 4531 ACTIONS COVERED**

*(TL:PER-410; 08-02-2001)*  
*(State Only)*  
*(Applies to Civil Service Employees)*

- a. 3 FAM 4530 applies to adverse actions cited in 5 CFR 752.401(a).
- b. This subchapter covers:
  - (1) Suspension for more than 14 calendar days;
  - (2) Removal;
  - (3) Furloughs of 30 calendar days or less; and
  - (4) Reduction in grade or pay.

### **3 FAM 4532 ACTIONS NOT COVERED**

*(TL:PER-410; 08-02-2001)*  
*(State Only)*  
*(Applies to Civil Service Employees)*

3 FAM 4530 does not apply to adverse actions cited in 5 CFR 752.401(b).

### **3 FAM 4533 EMPLOYEES COVERED**

*(TL:PER-410; 08-02-2001)*  
*(State Only)*  
*(Applies to Civil Service Employees)*

3 FAM 4530 applies to employees cited in 5 CFR 752.401, paragraph c.

### **3 FAM 4534 EMPLOYEES NOT COVERED**

*(TL:PER-410; 08-02-2001)*  
*(State Only)*  
*(Applies to Civil Service Employees)*

3 FAM 4530 does not apply to employees cited in 5 CFR 752.401(d).

## 3 FAM 4535 PROCEDURES

*(CT:PER-691; 03-18-2013)*  
*(State Only)*  
*(Applies to Civil Service Employees)*

- a. An employee against whom an adverse action is proposed under 3 FAM 4530 is entitled to the procedures set forth in 5 U.S.C. 7513 and 5 CFR 752.404.
- b. Subject to 3 FAM 4356, an employee *must* be given at least 30 calendar days advance written notice stating the specific reasons for the proposed action.
- c. The Department will allow an employee a reasonable time, normally 10 days, but not less than 7 days, to answer charges in a notice of proposed suspension under 3 FAM 4530.
- d. An employee's attorney or other representative must be designated in writing to the deciding official.
- e. The deciding official *must* give the employee a reasonable opportunity to make any presentations which are relevant to the final decision on the case. However, this does not include the right to discovery or a formal hearing with examination of witnesses.
- f. The deciding official *must* consider only the reasons specified in the notice of proposed action and *must* consider any answers of the employee and/or his or her representative.
- g. The deciding official *must* notify the employee, in writing, at the earliest practicable date:
  - (1) Which reasons in the proposed notice have been found sustained and which have not been sustained; and
  - (2) Advise the employee of applicable appeal or grievance rights. The notice of decision *must* be delivered to the employee at or before the time the action will be effective.

## 3 FAM 4536 EXCEPTIONS TO THE NOTICE PERIOD AND OPPORTUNITY TO PREPARE ANSWER

*(CT:PER-691; 03-18-2013)*

*(State Only)*

*(Applies to Civil Service Employees)*

- a. The 30 calendar day advance written notice period for *adverse* actions under 3 FAM 4531 may be shortened when the Department has reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed. Under such circumstances, the Department may require the employee to furnish any answer to the proposed action, and affidavits and other documentary evidence in support of the answer, within such time as would be reasonable, but not less than 7 days.
- b. No advance notice or opportunity to answer is required for furlough without pay when the furlough is due to unforeseen circumstances, such as equipment failure, acts of God, or sudden emergencies requiring immediate curtailment of activities.

### **3 FAM 4537 DUTY STATUS DURING NOTICE PERIOD**

*(CT:PER-691; 03-18-2013)*

*(State Only)*

*(Applies to Civil Service Employees)*

Normally, an employee against whom an adverse action under section 3 FAM 4536 is proposed, including indefinite suspension, *must* be retained in an active duty status during the notice period. When circumstances are such that the employee's continued presence in the workplace during the notice period may pose a threat to the employee or others, result in loss of or damage to U.S. Government property, or otherwise jeopardize legitimate U.S. Government interests, the Department may elect one or a combination of the following alternatives:

- (1) Assign the employee to duties where he or she is no longer a threat to safety, U.S. Government property or U.S. Government interests;
- (2) Allow the employee to take leave, or place him or her in an appropriate leave status (annual, sick, leave without pay, or absence without leave) if the employee has absented himself or herself from the work site without requesting leave; or
- (3) Place the employee in a paid, non-duty status for such time as is necessary to effect the action, *as provided by* 3 FAM 3464.1-2, *3 FAH-1 H-3461.2-2, and* 3 FAH-1 H-3461.6.

### **3 FAM 4538 AND 3 FAM 4539 UNASSIGNED**